



AUGUST 11, 2009

HONORABLE JUDGE LYNN S. ADELMAN
517 EAST WISCONSIN AVENUE
MILWAUKEE, WISCONSIN 53202

SUBJECT: CASE OF DAVID SZYMUSZKIEWICZ
SENTENCING SCHEDULED FOR SEPTEMBER 9, 2009

DEAR HONORABLE JUDGE ADELMAN:

WE ARE DAVID AND THELMA WALKER, IN LAWS OF DAVID SZYMUSZKIEWICZ,
WHO WAS CONVICTED IN YOUR COURT IN OCTOBER, 2008.

WE ATTENDED THE ENTIRE TRIAL OF DAVID SZYMUSZKIEWICZ IN YOUR COURT
AND WERE SURPRISED BY THE GUILTY VERDICT BROUGHT BY THE JURY IN
DAVID'S CASE.

WE HAVE ALWAYS BELIEVED THAT A DEFENDANT IS INNOCENT UNTIL PROVEN
GUILTY BEYOND A REASONABLE DOUBT. BASED ON THE GOVERNMENT'S CASE,
WE DID NOT BELIEVE THE GOVERNMENT MET THE BURDEN OF PROOF
REQUIREMENT.

OUR REASON FOR BELIEVING THE BURDEN OF PROOF REQUIREMENT WAS NOT
MET IS THE FOLLOWING:

- 1) DAVID'S FORMER SUPERVISOR, NELLA INFUSINO, THE PRIME WITNESS IN
THE CASE, WAS SICK WITH CANCER FOR FIVE MONTHS DURING 2003, SHE
WAS ON SICK LEAVE AWAY FROM THE OFFICE DURING THIS PERIOD. SHE
HAD VARIOUS ACTING SUPERVISORS, SUB FOR HER, WHO HAD ACCESS TO
HER RECORDS AND POSSIBLY TO HER COMPUTER DURING THIS PERIOD.
ANY ONE OF THESE PERSONS COULD HAVE PUT A RULE ON HER COMPUTER
DIRECTING EMAILS TO BE SENT TO DAVID.
- 2) MANY OF NELLA INFUSINO'S RESPONSES DURING THE TRIAL WHEN
QUESTIONED ABOUT HAVING EMAILS SENT TO DAVID, RESPONDED, "I
DON'T REMEMBER". GOING THROUGH CANCER TREATMENT FOR FIVE
MONTHS COULD EASILY HAVE RESULTED IN NELLA NOT REMEMBERING IF
SHE EVER AUTHORIZED EMAILS TO BE SENT TO DAVID. NEVERTHELESS,
SHE COULD HAVE AUTHORIZED EMAILS TO BE SENT.
- 3) DAVID WAS AN ACTING SUPERVISOR FOR NELLA INFUSINO, FOR THE
PERIOD, DECEMBER 23, 2002 TO JANUARY 3, 2003. IF DAVID WAS
EMPOWERED TO ACT FOR NELLA DURING THIS PERIOD, IT IS REASONABLE
TO ASSUME DAVID WOULD HAVE BEEN GIVEN ACCESS TO EMAILS COMING

INTO THE GROUP IN ORDER TO FUNCTION AS AN ACTING SUPERVISOR FOR THE GROUP

- 4) ALLEGATIONS MADE THAT DAVID MADE TRIPS TO NELLA'S COMPUTER NUMEROUS TIMES TO SET UP RULES FOR EMAILS SEEMS HIGHLY SUSPECT SINCE THE IRS CHANGES PASSWORDS FOR COMPUTERS EVERY 90 TO 120 DAYS. THERE WOULD SEEM TO BE NO WAY DAVID COULD CONSISTENTLY HAVE RELEARNED NELLA'S PASSWORD AFTER EACH CHANGE OF HER PASSWORD SINCE A PASSWORD IS A VERY PERSONAL ITEM.
- 5) THE INTERNAL REVENUE SERVICE NEVER ALLOWED DAVID'S ATTORNEY AND HIS TEAM TO EXAMINE THE COMPUTER OF NELLA EVEN THOUGH A NUMBER OF REQUESTS WERE MADE TO EXAMINE IT. WE WOULD THINK EXAMINING HER COMPUTER WOULD BE CRUCIAL PART OF EVIDENCE THAT WAS DENIED DAVID'S DEFENSE TEAM.
- 6) ALLEGATIONS MADE THAT DAVID WOULD SNEAK INTO NELLA'S OFFICE AND SET UP RULES ON NELLA'S COMPUTER TO RECEIVE EMAILS WHILE NELLA WAS AWAY FROM HER DESK ARE HIGHLY SUSPECT SINCE NO PROOF WAS EVER SUBMITTED VERIFYING THESE ALLEGATIONS. IN ADDITION A TAX AUDITOR HAD A DESK NEXT TO NELLA'S OFFICE AND ONE WOULD ASSUME THE AUDITOR WOULD COMMENT IF HE OR SHE SAW SOMEONE SNEAKING INTO THE SUPERVISOR'S OFFICE SUSPICIOUSLY..
- 7) DAVID NEVER RECEIVED ANY BENEFIT FROM EMAILS ERRONEOUSLY RECEIVED. HE HAD NO REASON TO EVEN WANT THEM.
- 8) MANY PEOPLE POSSESSING COMPUTERS RECEIVE MISDIRECTED EMAILS IN ERROR. THERE IS A COMMON PRACTICE IN EMAILS TO STATE, "IF YOU RECEIVED THIS EMAIL IN ERROR, PLEASE DELETE". WE WOULD ASSUME THAT PERHAPS EVEN YOUR OWN SECRETARY HAS RECEIVED MISDIRECTED EMAILS IN ERROR AT TIMES.
- 9) WE WERE SHOCKED AT THE SPEED THE JURY REACHED A VERDICT OF GUILTY AT THE JURY TRIAL. WE ARE SURE MANY ON JURY DID NOT EVEN UNDERSTAND THE TECHNICAL ISSUES INVOLVED. FURTHERMORE WE HAD THE FEELING THE JURY MERELY WANTED TO GET OUT OF THE COURT ROOM AS SOON AS POSSIBLE THE FINAL DAY OF THE TRIAL. THE MILWAUKEE BREWERS WERE PLAYING THEIR FIRST PLAY OFF GAME IN TWENTY SEVEN YEARS AT 5:00 PM AND SO THE CASE WAS DECIDED BY 4:45 PM THE SAME DAY. WE WONDER IF TRUE JUSTICE WAS REALLY ACHIEVED.

YOUR HONOR, WE APPRECIATE YOUR TAKING YOUR TIME TO CONSIDER OUR THOUGHTS. WE HOPE THAT YOU WILL TAKE THEM IN CONSIDERATION WHEN DECIDING THE FATE OF DAVID SZYMUSZKIEWICZ.

SINCERELY,

David H. Walker Thelma J. Walker

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